

LAW

ON THE PROTECTION OF LAYOUT-DESIGNS OF INTEGRATED CIRCUITS

I. General Provisions

Article 1

This Law shall regulate the protection of layout-designs of integrated circuits, hereinafter: topography.

Article 2

Integrated circuit means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and or on a piece of material and which is intended to perform an electronic function.

Layout-design – topography – of an integrated circuit means the three-dimensional disposition of elements, however expressed, at least one of which is an active element, and of some or all of the interconnections of an integrated circuit, or such a three-dimensional disposition of an integrated circuit prepared for manufacture.

Creator of a topography is the natural person who has created the topography by his or her own creative intellectual work.

The holder of the protected right means the natural person who or the legal entity which, in the procedure prescribed by this Law, has been granted the right to protection of the topography, or its successors in title.

Commercial exploitation of the topography means the production, reproduction, importation, sale, leasing, rental or offering for any of these purposes, or any other way of commercial use of the topography or the integrated circuit produced on the basis of the topography.

II. Right to Protection

Article 3

The right to the protection of a topography under this Law shall belong to its creator as well as to his successors in title.

If the topography has been created jointly by several persons, the right to protection of the topography shall equally belong to all its creators, unless otherwise provided by a contract.

If the topography has been created in the course of employment or is based on commission, the right to protection shall apply in favour of the creator's employer or in favour of the ordering party, unless otherwise stipulated by the contract of employment or commission.

The right to protection referred to in paragraphs 1 and 2 of this Article shall belong to natural persons who are nationals of the Republic of Croatia or to legal entities having their business seat in the territory of the Republic of Croatia.

The right to protection referred to in paragraphs 1 and 2 of this Article shall also belong to natural persons who are not nationals of the Republic of Croatia, and to foreign legal entities having no residence in the territory of the Republic of Croatia, if this results from international treaties and conventions or from the application of the principles of reciprocity.

Article 4

The right to the protection of a topography shall be transferable.

III. Protection Requirements and Granting Procedure

Article 5

A topography shall be protected if it is original.

A topography shall be deemed original if it is a result of the creator's own intellectual activity and the creative activity of several persons, and has not been applied in the industry of semiconductors at the time of its creation.

If a topography contains elements that have been applied in the industry of semiconductors, the combination of these elements shall be protected, taken as a whole, only if it meets the requirements related to the originality stipulated by paragraphs 1 and 2 of this Article.

Article 6

The State Intellectual Property Office of the Republic of Croatia (hereinafter: the Office) shall carry out the administrative granting procedure and shall keep the register of the protected topographies.

Against the decisions made by the Office no appeal shall be allowed, nevertheless an administrative law-suit may be initiated.

The register referred to in paragraph 1 of this Article shall be public.

Article 7

Topography granting procedure shall be initiated by filing to the Office a request for the grant of a topography and other relevant elements prescribed by this Law (hereinafter: topography application).

A topography application shall contain:

- a) a request for the grant of a topography,
- b) indications allowing the identity of the applicant to be established,
- c) sufficient data to contact the applicant or his representative, if any, by mail,
- d) written statement as to the date of the first commercial exploitation if that date occurred before the filing date of the application,
- e) short description of characteristics of the electronic function or functions of the integrated circuit, produced on the basis of that topography,
- f) data and supplements identifying the topography prescribed by Article 8 of this Law.

By one application the protection of only one topography may be applied for.

Article 8

The material to be attached to the application under Article 7, paragraph 2, subparagraph f) of this Law, for the purpose of identifying the topography, shall consist of:

- a) drawings or photographs of layouts for the production of integrated circuit, or
- b) drawings or photographs of masks or the parts thereof for the production of the integrated circuit, or
- c) drawings or photographs of individual layers of the integrated circuit.

The following may be attached to the material referred to in paragraph 1 of this Article: data carriers, their printouts, the integrated circuit for the topography of which the protection is applied for, or a detailed description.

The applicant has the right to mark any of the required materials or any of the parts thereof as a trade secret, in which case these parts shall be made available for inspection only in the procedure before the court concerning a lawsuit relating to the validity of the protected topography, or to the infringement of such protection. The applicant may submit to the Office also the copies of the application in which the parts referring to business information have been made unreadable.

The Director of the Office shall enact the Regulations defining the form of the application, and the manner of drafting and filing it.

Article 9

The Office shall examine whether the application contains all the prescribed elements referred to in Article 7, paragraph 2, and Article 8, paragraph 1 of this Law with respect to the application filed, referred to in Article 7 paragraph 1 of this Law.

If the application does not contain all the prescribed elements referred to in Article 7, paragraph 2 and Article 8, paragraph 1 of this Law, it shall be deemed incorrect and the Office shall invite the applicant to remedy all the deficiencies within a term which shall not be shorter than one month and not longer than three months.

If the applicant remedies all the deficiencies within the prescribed time limit referred to in paragraph 2 of this Article, the date of receipt of the correct application shall be deemed as the filing date of the application.

If the applicant does not remedy all the deficiencies within the time limit referred to in paragraph 2 of this Article, the application shall be rejected by a decision.

Article 10

If the application contains all the requirements referred to in Article 7, paragraph 2, and Article 8, paragraph 1 of this Law, the applicant, as the holder of the protected right, shall be issued a decision on the grant of the right to a topography by the Office and the protected topography shall be entered in the register of topographies kept by the Office, and the data from the register shall be published in the Office Official Gazette.

Article 11

For each topography the following data shall be entered in the register of protected topographies:

- a) registration number of the protected topography,
- b) filing date of the application,
- c) date and number of the decision on the entry into the register,

The Director to the Office shall enact the Regulations prescribing the form, and the manner of keeping the register.

Article 12

The acts performed in the course of the administrative granting procedure as well as the maintenance of the rights in effect, shall be subject to the payment of the administrative fees and procedural charges in compliance with the special regulations.

Should the prescribed administrative fees and procedural charges not be paid within the prescribed time limit, the application shall be deemed withdrawn, and the granted right shall cease to be valid.

Article 13

The decision on the grant of the right to a topography shall be declared null and void if the following has been established:

- a) that the topography is not original,
- b) that the application was filed by a natural person or a legal entity not entitled to the protection,
- c) that the application was not filed within the prescribed terms referred to in Article 20 of this Law,
- d) that the identification of the protected topography is not possible on the basis of layouts relating to it.

The procedure relating to the declaration of the decision on the grant of the right to a topography null and void may be initiated by the Office ex officio, on the proposal of any natural person or legal entity or by the state attorney on the grounds prescribed in paragraph 1, subparagraphs a), b), c) and d) of this Article, during the entire duration of the protection.

IV. Effects of Protection and Limitations

Article 14

The holder of the right to a protected topography has the exclusive right of its commercial exploitation, including the right to allow or prohibit the following acts:

- a) reproduction of the topography,
- b) importation, sale or other forms of putting into circulation the topography or the integrated circuit containing the protected topography, as well as the products incorporating the integrated circuit containing the protected topography.

The exclusive rights referred to in paragraph 1 of this Article shall not apply to the concept, process, system or the technology of production of the topography, or any information stored in the integrated circuit, but to the topography as such.

Article 15

Without the consent of the holder of the right to a topography the following shall be permitted:

- a) reproduction of the protected topography for non-commercial purposes,
- b) reproduction of the protected topography for the purposes of analysing or assessing concepts, processes, systems and technologies contained in the topography, or for the needs of education or research, and

c) commercial exploitation of a new topography which has been created on the basis of research and analysis of the protected topography but is deemed original and a result of personal creative effort of its creator and is not known from everyday use in the industry of semiconductors.

Article 16

A person whose rights resulting from the protected topography have been infringed may require, beside the payment for damages, the ordering of measures for preventing further infringement of his protected rights.

A person infringing the rights arising from the protected topography shall be liable for the damage incurred, in accordance with the general principles on the payment for damages.

Provisions referred to in paragraph 1 of this Article shall also apply to the legal successor of the protected topography.

Article 17

A person who commercially exploits an integrated circuit with a protected topography without knowing or having no reason to assume that it is a protected topography shall not be prohibited to commercially exploit such an integrated circuit.

The holder of the right to the protected topography may demand, in writing, from the person referred to in paragraph 1 of this Article, the payment for damages for the commercial exploitation of the protected topography, the amount of which shall depend on the extent of its commercial exploitation. The payment for damages can be demanded as of the date on which the person referred to in paragraph 1 of this Article has learnt, or had reason to believe, that it was a protected topography.

The payment for damages referred to in paragraph 2 of this Article shall be set by the holder of the protected topography and the person referred to in paragraph 1 of this Article in an agreement. Should no agreement be reached, the amount to be paid for damages shall be decided by the competent court.

The provision referred to in paragraph 1 of this Article shall also apply to the successor in title of that person.

The right to the commercial exploitation referred to in paragraph 1 of this Article shall be limited to importation, sale or any other form of putting into circulation the integrated circuit products or other products containing the protected topography, and this right shall apply to the topography or products available at the time of receipt of the demand referred to in paragraph 2 of this Article.

Article 18

The holder of the protected topography may not prohibit offering for sale, sale and use of the products when the protected topography, integrated circuit containing the protected topography or the produc

b) on the date of the first commercial exploitation of the topography, notwithstanding its worldwide place of occurrence.

Article 20

The exclusive rights shall cease to be valid upon the expiration of a ten year period counting from the earlier of the following dates:

- a) end of the calendar year in which the first commercial exploitation of the topography has started anywhere in the world, or
- b) end of the calendar year in which the regular application has been filed.

The exclusive rights shall cease even before the expiration of the period referred to in paragraph 1 of this Article if the prescribed fees and procedural charges have not been paid, or if the holder of the right waives his right in writing.

Exceptionally the exclusive rights shall expire within fifteen years as from the creation of the topography if it has not been exploited commercially.

During the time of validity of the exclusive rights, the holder of the protected topography shall be entitled to mark the integrated circuit by capital T.

Article 21

The application referred to in Article 7 of this Law shall not be filed after the expiration of a two-year period as from the date on which the first commercial exploitation of the topography has started.

VI. Transitional and Final Provisions

Article 22

Corresponding provisions of the Patent Law shall apply to the provisions on the representation, on the holders of joint rights, on the procedure for the declaration of the decision on the grant of the right to a topography null and void, on the deadlines for bringing charges on the grounds of the infringement of the right, on the transfer of the right, and on licence agreements.

Article 23

The provisions of this Law shall apply only to the topographies created after its entry into force.

Article 24

The Director of the Office shall define, by the Regulations, the matters referred to in Article 8 and Article 11 of this Law. The Regulations shall be enacted up to the date prescribed for the application of this Law.

Article 25

This Law shall enter into force on the eighth day as from the date of its publication in "Narodne novine" - the Official Gazette of the Republic of Croatia, and shall be applied as from January 1, 2000.